

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

This matter is before the Court on Justin Allee's motion for leave to file an amended motion pursuant to 28 U.S.C. § 2255, Filing No. 327, and motion to appoint counsel, Filing No. 326. Previously, on May 5, 2005, this Court denied Mr. Allee's motion pursuant to 28 U.S.C. § 2255, Filing No. 285, and has also denied his subsequent motions to amend. Filing Nos. 289, 307 and 318. The Court has carefully reviewed the motion to amend the section 28 U.S.C. § 2255 complaint and finds it is totally devoid of merit. Accordingly, the Court will deny the motion to amend as it lacks merit and denies the motion to appoint counsel as moot.

THEREFORE, IT IS ORDERED THAT:

1. Justin Allee's motion for leave to file an amended 28 U.S.C. § 2255 action, Filing No. 327, action is denied; and
2. Justin Allee's motion to appoint counsel, Filing No. 326, is denied as moot.

DATED this 20th day of October, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge